

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ESTHEFANY HEREDIA, et al.

Plaintiffs,

- against -

AMERICARE, INC., et al.

Defendants.  
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: 17-cv-6219 (RWL)

: **AMENDED ORDER**  
: **REPLACING DKT. 104**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

In a Fair Labor Standards Act wage-and-hour case such as this, the court must consider whether a proposed settlement agreement is fair and reasonable and the subject of an arms-length negotiation, not an employer's overreaching. *See Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015).

The Court previously rejected the Settlement Agreement submitted to the Court for approval in connection with the collective portion of this case. Since then, Plaintiffs' counsel has provided the Court with retainer agreements with his clients as well as citation to additional authorities. In light of the foregoing, and given that the attorneys' fees to be paid to Plaintiffs' counsel are considerably less than his lodestar, the Court finds the distribution of funds as between client and counsel in this particular case to be fair and reasonable.

The Court assisted in mediating the settlement of this action and has carefully reviewed the Settlement Agreement as well as the parties' supporting letter. In considering whether to approve the Settlement Agreement, the Court has taken into account, without limitation, prior proceedings in this action; the attendant risks, burdens, and costs associated with continuing the action; the range of possible recovery; whether

the Settlement Agreement is the product of arm's length bargaining between experienced counsel or parties; the amount of attorney's fees; and the possibility of fraud or collusion. Considering all the circumstances, the Court finds that the Settlement Agreement is fair and reasonable and hereby approved.

This case shall remain open for proceedings addressing the individual claims.

SO ORDERED,

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: November 21, 2019  
New York, New York

Copies transmitted to all counsel of record.